

STATE OF MONTANA COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES	REF: CNTY-4
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PROGRAM/SUBJECT: Counties - Cash and Investments	

TYPES OF ENTITIES: Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: Title 7, Chapter 6, Parts 2 and 6, MCA; and Sections 7-7-2112, 17-6-103, and 17-6-204, and 20-9-235, MCA, and Administrative Rules of Montana (ARM), as noted below.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CUSTODIAN OF ALL PUBLIC MONEY:

1. Compliance Requirements:

- The county treasurer shall receive, disburse, and serve as the custodian of all county money and all other money directed to be paid to the treasurer by law; safely keep the money; apply and pay the money out; account for the money as required by law; provide for accountability of all local government cash receipts and for deposits and investments of all departments, offices, and boards; pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants; and require periodic departmental reports of money receipts and their disposition on forms that the county treasurer prescribes.
(Sections 7-6-2111 & 7-6-612, MCA)

(NOTE: A county-recognized search and rescue unit that, pursuant to Section 7-32-235(3), MCA, receives tax money to support the unit may maintain private bank accounts to distribute funds accumulated from nontax sources. The county sheriff does not control the finances of a county-recognized and – supported search and rescue unit. (A.G.O. No.10, Volume 44))

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CUSTODIAN OF ALL PUBLIC MONEY - continued:

1. Compliance Requirements - continued:

- The county treasurer shall keep an account of the receipt and expenditures of the money in books provided for the purpose, in which must be entered: (a) the amount and the time when, from whom, and on what account all money was received; and (b) the amount and time when, to whom, and on what account all disbursements were made. (Sections 7-6-2111, MCA)

Suggested Audit Procedures:

- Determine that the county treasurer is the custodian of all money belonging to the county and all other money directed to be paid to the treasurer by law, and that there is an accounting of the receipt and expenditures of the money as provided above.
- Determine that the county treasurer pays out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants.
- Determine that the county treasure requires periodic departmental reports of money receipts and their disposition on forms prescribed by the county treasurer

DEPOSITORIES FOR PUBLIC MONEY:

2. Compliance Requirements:

- A county may invest public money in the following:
(Sections 7-6-202, 7-6-206, 7-6-213, and 17-6-204, MCA)
 - a. United States government treasury bills, notes, and bonds, and United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations. (Section 7-6-202, MCA)
 - b. United States treasury receipts in a form evidencing the holder's ownership of future interest or principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the federal reserve bank of New York. (Section 7-6-202, MCA)
 - c. obligations of the following agencies of the United States:
 - i. Federal Home Loan Bank;
 - ii. Federal National Mortgage Association;
 - iii. Federal Home Mortgage Corporation; and
 - iv. Federal Farm Credit Bank.
 (Section 7-6-202, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DEPOSITORIES FOR PUBLIC MONEY - continued:

2. Compliance Requirements - continued:

(Note: An investment in an agency of the United States must be a general obligation of the agency and have a fixed or zero-coupon rate and must not have prepayments that are based on underlying assets or collateral, including but not limited to residential or commercial mortgages, farm loans, multifamily housing loans, or student loans. (Section 7-6-202(2), MCA))

- d. United States government security money market fund if:
 - i. the fund is sold and managed by a management-type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be amended;
 - ii. the fund consists only of eligible securities as described above;
 - iii. the use of repurchase agreements is limited to agreements that are fully collateralized by the eligible securities, as described in this section, and the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;
 - iv. the fund is listed in a national financial publication under the category of "money market mutual funds", showing the fund's average maturity, yield, and asset size; and
 - v. the fund's average maturity does not exceed 397 days.
(Section 7-6-202, MCA)
- e. time or savings deposits with a bank, savings and loan association, or credit union in the state. (Section 7-6-206, MCA)
- f. repurchase agreements, as provided in Section 7-6-213, MCA. (Section 7-6-206, MCA)
- g. the State Short-Term Investment Pool (STIP), as provided in 17-6-204, MCA.
(Section 7-6-202, MCA)

(Note: There is no express or implied limitation on a county treasurer's ability to use the services of an investment or brokerage firm to purchase approved securities; however, an investment company may not be used in making demand or time deposits because that form of transaction is restricted to banks, savings and loan associations, and credit unions. (A.G.O. Number 25, Volume 42.))

- **Effective April 15, 2005 – Out-of-state certificates of deposit** - In addition to the investments authorized above, public money not necessary for immediate use by a county may be invested in accordance with the following conditions:
 - (a) the money is initially invested through a federally insured financial institution in the state selected by the governing body;
 - (b) the selected in-state financial institution arranges for the deposit of the funds in certificates of deposit for the account of the county in one or more federally insured financial institutions, regardless of location;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DEPOSITORIES FOR PUBLIC MONEY - continued:

2. Compliance Requirements - continued:

- (c) the full amount of principal and accrued interest on each certificate of deposit is covered by federal deposit insurance;
- (d) the selected in-state financial institution acts as the custodian for the county with respect to the certificates of deposit issued for its account; and
- (e) at the same time that the county money is deposited and the certificates of deposit are issued, the selected in-state financial institution receives an amount of deposits from customers of other federally insured financial institutions, regardless of location, equal to or greater than the amount of money initially invested by the county through the selected in-state financial institution.

(Section 7-6-206(3), MCA)

- Investments may not have a maturity date exceeding 5 years, except when the investment is used in an escrow account to refund an outstanding bond issue in advance. (Section 7-6-202(4), MCA)
(Note: See exception in following compliance requirement.)
- An investment of the assets of a local government group self-insurance program established pursuant to Section 2-9-211, MCA, or Section 39-71-2103, MCA, may not have a maturity date exceeding 10 years, and the average maturity of all those authorized investments of a local government group self-insurance program may not exceed 6 years. (Section 7-6-202(5), MCA)
- Revisions made to Section 7-6-202, MCA, by the 1995 Legislature were effective upon passage and approval, which was on April 13, 1995. An applicability clause in the legislation specified that these revisions do not apply to and do not require the sale of securities that were legal investments before this effective date. However, upon liquidation of such investments, the proceeds must be invested pursuant to the revised Section 7-6-202, MCA. This applicability clause has been interpreted to mean that mutual fund dividends may not be reinvested after the effective date unless the mutual fund is a United States government security money market fund meeting the criteria specified in the Section 7-6-202(3), MCA, as revised.

Suggested Audit Procedure:

- Review selected investments, including both investments held at year-end and during the fiscal year, to determine if the types of investments are authorized by state law.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DEPOSITORIES FOR PUBLIC MONEY - continued:

3. Compliance Requirements:

- Demand deposits may be placed only in banks.
(Section 7-6-205, MCA)
- Except as provided in Section 7-6-202 (investments), Section 7-6-206 (time deposits and repurchase agreements), and Section 7-6-2701 (registered warrants), MCA, it shall be the duty of all county treasurers to deposit all public money in their possession and under their control in any solvent banks, building and loan associations, savings and loan associations, or credit unions located in the county of which such treasurer is an officer, subject to national supervision or state examination as the local governing body may designate, and no other. (Section 7-6-201, MCA)

(Note to Auditor: Effective October 1, 1997, county governments are no longer required to distribute demand deposits ratably among all banks in the county.)

Suggested Audit Procedures:

- Determine that the county's demand deposits are only in banks.
- Determine that all public money is deposited in banks, building and loan associations, savings and loan associations, or credit unions located in the county, except as provided in Sections 7-6-202 (investments), 7-6-206 (time deposits and repurchase agreements), and 7-6-2701 (registered warrants), MCA.

(Note to Auditor: School districts have the option of directing the county treasurer to invest any money of the district, as they were previously required to do, or they may directly invest the money of the district in eligible securities, as identified in 7-6-202. In addition, effective July 1, 1999, they may also enter into a unified investment program with the state program established in Title 17, Chapter 6, MCA, or in a unified investment program with the county treasurer, with other school districts, or with any other political subdivision if the unified investment program is limited to investments that meet the requirements of State law. A school district that enters into a unified investment program with another school district or political subdivision other than the State shall do so under the auspices of and by complying with the provisions governing interlocal cooperative agreements authorized under Title 7, Chapter 11, MCA, and education cooperative agreements authorized under Title 20, Chapter 9, Part 7, MCA. A school district shall either contract for investment services with any company licensed to do business in Montana under the provisions of Title 30, Chapter 10, MCA, or shall contract with the State Board of Investments for investment services. If a school district takes advantage of these other investment options, the county treasurer may not be involved in investing school district money as has been done in the past. The

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DEPOSITORIES FOR PUBLIC MONEY - continued:

Suggested Audit Procedures - continued:

treasurer would, however, still have to redeem school district warrants. Therefore, the school district would have to make certain that sufficient cash was on deposit with the county treasurer to redeem school district warrants presented to the treasurer for payment. If a school district does this, then we recommend that the county treasurer have on file a copy of the investment services contract with the investment services company selected, or with the State Board of Investments. (See Compliance Supplement SD-3 – School Districts - Cash and Investments for additional information) (Section 20-9-213, MCA))

(Note to Auditor: A school district may establish an investment account(s) as described in Section 20-9-235, MCA. (An “investment account” does not include a countywide investment pool or an investment pool formed by a combination of schools and/or other local governments. ARM 10.10.610(2)) Before establishing a school district investment account, the trustees must enter into a written agreement with the county treasurer. The agreement must:

- a. establish specific procedures and reporting dates to comply with the requirements of subsection 20-9-235(3) , MCA;
- b. be binding upon the district and the county treasurer for a period of not less than 5 years (Note: Effective October 1, 2003, the 5 year period was changed to “a negotiated period of time”.);
- c. be signed by the presiding officer of the board of trustees and the county treasurer; and
- d. coincide with fiscal years beginning on July 1 and ending on June 30. (Note: An agreement that establishes a school district investment account for fiscal year 2002 must be entered into no later than October 1, 2001.) To be effective for the ensuing school year, the agreement must be entered into no later than June 30 of the year before the investment accounts are established.

(ARM 10.10.613(3))

(Section 20-9-235, MCA)

(Note: A separate agreement must be used for each elementary, high school or K-12 district. (ARM 10.10.613(4))

(See Compliance Supplement SD-3 – School Districts – Cash and Investments for additional information) (Section 20-9-235, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DEPOSITORIES FOR PUBLIC MONEY - continued:

4. Compliance Requirement:

- When a county has money under its control for which there is no immediate demand, the county may invest it in county, municipal, hospital district, or school district registered warrants. The entities must be located in the same county. The commissioners shall:
 - a. designate the fund or funds to be invested;
 - b. fix the amount that may be purchased;
 - c. establish the rate of interest the county shall receive for the investment; and
 - d. designate the warrants that are to be purchased.
 (Section 7-6-2701, MCA)

Suggested Audit Procedure:

- Review investments to determine if the county has invested in registered warrants from the county itself or other entities in the county as listed above. If it has, review the minutes or other documentation to determine if the commissioners designated the funds to be invested, fixed the amount to be purchased, established the interest rate, and designated the warrants to be purchased.

5. Compliance Requirement:

- Public funds realized from the sale of bonds by a county for the purpose of constructing public buildings or for other construction may be invested in any time or savings deposits, United States certificates of indebtedness, United States treasury notes, or United States treasury bonds having a maturity date of 1 year or less, when emergency conditions beyond the control of the county commissioners exist which preclude the construction of the projects for which the bonds were issued at the time such investments are made. These funds may also be invested in the State Short-Term Investment Pool (STIP). (Section 7-7-2112, MCA)

Suggested Audit Procedure:

- Review long term debt files and determine if the county has invested any money pertaining to the sale of bonds. If it has, review the minutes and investment ledgers or other documentation to determine if the money was invested as describe above.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

BIDS FOR DEPOSITS AND INVESTMENTS:

6. Compliance Requirement:

- The county may solicit bids for time deposits or savings deposits from banks, savings and loan associations, or credit unions within the state. Bids for repurchase agreements may be solicited from all financial institutions chartered to do business in the state which are authorized to accept demand deposits and to buy and sell securities. The county may deposit money in the institutions unless a local financial institution located within the county agrees to pay the same rate of interest. The governing body may solicit bids by mail from the institutions that have requested that their names be listed for bid notice with the Department of Administration. (Sections 7-6-206 and 7-6-213, MCA)

Suggested Audit Procedure:

- If the county solicits bids for investments, review the documentation regarding the interest rates presented during the bidding process. If the interest rates for local and non-local institutions are the same, determine that the local financial institution was chosen.

INTEREST RATES ON DEPOSITS OF PUBLIC MONEY:

7. Compliance Requirement:

- The rate of interest paid to the county must be the same as that paid on money from private sources on the same terms. Refusal of any bank, building and loan association, savings and loan association, or credit union to pay that same interest rate shall constitute a waiver of that institution's right to participate in the deposit of public funds. (Section 7-6-203, MCA)

Suggested Audit Procedure:

- If, based on the auditor's knowledge and background, it is discovered during the audit that interest paid to the county may not be the same as the interest that is paid on money from private sources on the same terms, the matter should be investigated further and disclosed if it can be documented that a lower interest rate was paid to the county.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PLEDGED SECURITIES:

8. Compliance Requirement:

- The county may require security for that portion of the deposits in financial institutions that are not guaranteed or insured according to law. The local government can require security to the extent of:
 - a. 50% of the deposits if the financial institution has a net worth to total assets ratio of 6% or more; or
 - b. 100% of the deposits if the financial institution has a net worth to total asset ratio of less than 6%.
 (Section 7-6-207, MCA)

(Note: The coverage rates for public funds that are insured by the Federal Deposit Insurance (FDIC) and National Credit Union Administration (NCUA) are as follows:

- (a) Up to \$100,000 in the aggregate for all time and savings deposits (share certificates and regular share accounts for credit unions); and**
- (b) Up to \$100,000 in the aggregate for all demand deposits (draft accounts for credit unions). ([12 C.F.R. Part 330.115](#) & 745.10).)**

Suggested Audit Procedure:

- If the county has deposits in a financial institution that are not guaranteed or insured according to law, obtain the published statement of condition for the financial institution to determine the financial institution's net worth to total assets ratio. Determine that the amount of securities pledged by the financial institution to protect those deposits that are not guaranteed or insured according to law is at least equal to the amounts required by state law, as described above.

9. Compliance Requirements:

- Pledged securities must consist of those specified in Section 17-6-103, MCA. (Section 7-6-207, MCA)
- When negotiable securities are furnished, the board of county commissioners must make a complete minute entry of the acceptance and approval of such securities. If a financial institution substitutes securities, the board of county commissioners shall approve the substitution at the next official board meeting. After negotiable securities have been approved, the board of county commissioners must reapprove them at least quarter-annually thereafter. (Section 7-6-207 & 208, MCA)

Suggested Audit Procedures:

- Determine the type of securities pledged to protect the county's deposits and determine that they comply with the requirements of Section 17-6-103, MCA.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PLEDGED SECURITIES - continued:

Suggested Audit Procedures - continued:

- Determine that the acceptance and approval of negotiable pledged securities is noted in the minutes of meetings of the board of county commissioners. Determine, also, that the commissioners reapprove these securities at least quarter-annually, and that this reapproval is noted in the minutes.
- Determine that the substitution of pledged securities is approved by the board of county commissioners.

CASH VERIFICATION BY CLERK AND RECORDER:

10. Compliance Requirement:

- The clerk and recorder must count the cash in the county treasurer's office at the close of business each month and retain a copy of the counting. (Section 7-6-2204, MCA)

Suggested Audit Procedure:

- Review a copy of the clerk and recorder's cash count of the county treasurer's office to ensure that it is being performed each month.

PETTY CASH FUND:

11. Compliance Requirements:

- A county governing body may set aside a sum out of the general fund, which must be known as a petty cash fund. The petty cash fund must be used for the purpose of paying incidental expenses, such as freight charges, express charges, postage, and other similar expenses that must be immediately paid in cash. (Section 7-6-615, MCA)
- In counties that have a county auditor, the county auditor is responsible for expenditures from the petty cash fund. In counties that do not have a county auditor, the county clerk is responsible for expenditures from the petty cash fund. (Section 7-6-615, MCA)

Suggested Audit Procedures:

- Determine if the county maintains a petty cash fund and verify that it is only used for the paying incidental expenses, such as freight charges, express charges, postage, and other similar expenses that must be immediately paid in cash.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PETTY CASH FUND - continued:

Suggested Audit Procedures:- continued:

- Verify that the county auditor maintains control of the petty cash fund, if the county has one, or the clerk and recorder if the county does not have a county auditor.
- Verify that the petty cash fund has been authorized by the governing body and has been set up on the imprest basis.

CASH TRANSFERRED TO OTHER FUNDS:

12. Compliance Requirement:

- Money may not be transferred from one fund to another except by resolution of a county governing body unless the transfer is:
 - (1) previously authorized by a budget resolution;
 - (2) to close inactive funds, as provided by Section 7-6-614, MCA;
 - (3) made in the usual course of county business for:
 - a. school transfers;
 - b. tax increment finance districts;
 - c. specialized tax situations;
 - d. the purpose of distributing refunds, protested taxes, or interest charges for interest in lieu of registered warrants;
 - e. bond sinking fund transfers;
 - f. residual equity transfers;
 - g. transfers of investments;
 - h. or corrections of errors; or
 - (4) otherwise authorized by statute.
(Section 7-6-613, MCA)

Suggested Audit Procedure:

- As part of cash testing, determine that cash transfers were only made for those purposes specified in Section 7-6-613, MCA.